REMARKS/ARGUMENTS

Claims 1-27 have been rejected. No claims have been amended. Claims 1-27 are pending. Applicants respectfully request reconsideration of the application in view of the following remarks submitted in support thereof.

Discussion of Rejection of Claims 1-27 under 35 U.S.C. § 102(e)

In the Office Action, Claims 1-27 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,477,591 to VanderSpek.

The Examiner's rejection is respectfully traversed. The Examiner asserts that the Abstract of VanderSpek and columns 2-17 of VanderSpek anticipate Claims 1-27. Applicants respectfully disagree. The VanderSpek Abstract states:

> A method and apparatus for providing mirroring of off-line storage data in a computer system. In one embodiment of the present invention, a computer system includes an application program, a plurality of storage devices, at least one storage driver that provides an interface between the application program and the plurality of storage devices, and a mirror driver that receives an I/O request from the application program requesting access to one of the plurality of storage devices, duplicates the I/O request to create a plurality of I/O requests, and sends the plurality of I/O requests to the storage driver so that each of the plurality of storage devices receives and processes one I/O request. In embodiments of the present invention, the computer system further includes a mirror application that communicates with the mirror driver to establish mirror sets of the plurality of storage devices.

In the Abstract citation provided by the Examiner, nowhere does the VanderSpek teach or suggest an automated method of establishing a filesystem that comprises establishing a first filesystem mounted on a root directory comprising a single storage device and establishing a second filesystem mounted on a root directory comprising the single storage

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device and another device. In fact, Applicants have read *all* of <u>VanderSpek</u>, including columns 2-17, and nowhere does <u>VanderSpek</u> explicitly or implicitly teach or suggest establishing a filesystem of any kind in any context. Rather, <u>VanderSpek</u> teaches overcoming the drawbacks of prior systems that provide fault tolerance for off-line data. VanderSpek teaches providing "a method and apparatus for mirroring off-line data in one or more storage devices utilizing a layered driver between a standard backup application and the storage devices." <u>See</u> <u>VanderSpek</u> at column 1, lines 24-25; column 2, lines 28-33. More particularly, as stated in the Abstract cited by the Examiner, <u>VanderSpek</u> teaches at least one storage driver that provides an interface between an application program and a plurality of storage devices, and a mirror driver that receives an I/O request from the application program requesting access to one of the plurality of storage devices. The mirror driver duplicates the I/O request to create a plurality of I/O requests and sends the plurality of I/O requests to the storage driver so that each of the plurality of storage devices receives and processes one I/O request. A mirror application that communicates with the mirror driver to establish mirror sets of the plurality of storage devices is also provided.

Moreover, "[i]n rejecting claims for want of novelty or for obviousness, the examiner *must cite the best references at his or her command.*" <u>See</u> C.F.R. § 1.104(c) (emphasis added). Additionally, "[t]he *pertinence of each reference*, if not apparent, *must be clearly explained and each rejected claim specified.*" <u>Id.</u> (emphasis added). Applicants respectfully note that the Office Action responded to herein does not specifically address the rejections of Claims 1-27. For example, the Office Action only broadly addresses the rejection of independent Claim 1 and does not address the rejections of independent Claims 8, 15, and 24, or dependent Claims 2-7, 9-14, 16-23, and 25-27. Therefore, Applicants respectfully request the Examiner to explain the pertinence of the <u>VanderSpek</u> reference for each rejected claim and for each corresponding claim element.

For at least the reasons stated above, VanderSpek does not teach or suggest establishing a filesystem of any kind. Consequently, VanderSpek cannot (and indeed does not) teach or suggest establishing a first filesystem mounted on a root directory comprising a single storage device and establishing a second filesystem mounted on a root directory comprising the single storage device and another device, as recited in the claimed invention. Therefore, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. § 102(e) rejections for independent Claims 1, 8, 15, and 24, and Claims 2-7, 9-14, 16-23, and 25-27 which respectively depend therefrom.

Discussion of Rejection of Claims 1-27 under 35 U.S.C. § 102(b)

In the Office Action, Claims 1-27 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,389,459 to McDowell.

The Examiner's rejection is respectfully traversed. The Examiner asserts that the Abstract of McDowell and columns 3-5 of McDowell anticipate Claims 1-27. Applicants respectfully disagree. The McDowell Abstract states:

> A system for mirroring data and disk drive device state over a network between a source computer including a first non-shared disk drive storage device and a target computer including a second non-shared disk drive storage device. The system includes layered software drivers installed within the source computer above the device driver for the first disk drive storage device for capturing and examining write requests directed to the first disk drive storage device, and transmitting the write request and extracted device state information to the target computer. Software drivers installed within the target computer above the device driver for the second disk drive storage device direct the received write requests to the second disk drive storage device, and the received device state information to volatile storage within the target computer.

In the Abstract citation provided by the Examiner, nowhere does the McDowell teach or suggest an automated method of establishing a filesystem that comprises establishing a

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first filesystem mounted on a root directory comprising a single storage device and, while input/output functionality is made available to the first filesystem, establishing a second filesystem mounted on a root directory comprising the single storage device and another device, wherein the first filesystem is rendered inactive. Again, Applicants have read *all* of McDowell, including columns 3-5, and nowhere does McDowell explicitly or implicitly teach or suggest an automated method of establishing a filesystem, as recited in the claimed invention. Rather, McDowell teaches a system for mirroring data and disk drive device state over a network between a source computer including a non-shared storage device and a target computer including a non-shared storage device. See McDowell at Abstract. Specifically, the Abstract and columns 3-6 of McDowell teach an approach that provides a mechanism for mirroring data and physical state between primary mirrored disk volumes and secondary mirrored disk volumes. See McDowell at column 4, line 68 – column 5, line 67. In particular, a filesystem mirror driver located at a first server is provided that captures write requests to a first storage volume and transmits the write requests to a second server. See McDowell at column 4, line 58 – column 8, line 26. A state filter driver is also located at the first server that determines a device state for the first storage volume and transmits the device state to the second server. Id. The second server includes a filesystem mirror driver that receives the write requests and directs the write requests to a second storage volume. Id. The second server also includes a state mirror driver that receives the device state and stores the device state in a storage device located at the second server. Id.

Moreover, "[i]n rejecting claims for want of novelty or for obviousness, the examiner *must cite the best references at his or her command.*" See C.F.R. § 1.104(c) (emphasis added). Additionally, "[t]he *pertinence of each reference*, if not apparent, *must be clearly explained and each rejected claim specified.*" Id. (emphasis added). Applicants respectfully note that the Office Action responded to herein does not specifically address the rejections of

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Claims 1-27. For example, the Office Action only broadly addresses the rejection of independent Claim 1 and does not address the rejections of independent Claims 8, 15, and 24, or dependent Claims 2-7, 9-14, 16-23, and 25-27. Therefore, Applicants respectfully request the Examiner to explain the pertinence of the McDowell reference for each rejected claim and each corresponding claim element.

For at least the reasons stated above, McDowell does not teach or suggest an automated method of establishing a filesystem that comprises establishing a first filesystem mounted on a root directory comprising a single storage device and, while input/output functionality is made available to the first filesystem, establishing a second filesystem mounted on a root directory comprising the single storage device and another device, wherein the first filesystem is rendered inactive, as recited in the claimed invention. Therefore, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. § 102(b) rejections for independent Claims 1, 8, 15, and 24, and Claims 2-7, 9-14, 16-23, and 25-27 which respectively depend therefrom.

Conclusion

In view of the foregoing, the Applicants respectfully submit that all the pending

Claims 1-27 are in condition for allowance. Accordingly, a Notice of Allowance is

respectfully requested. If the Examiner has any questions concerning the present amendment,

the Examiner is requested to contact the undersigned at (408) 749-6920. If any additional

fees are due in connection with filing this amendment, the Commissioner is also authorized to

charge Deposit Account No. 50-0805 (Order No. SUNMP441). A duplicate copy of the

transmittal is enclosed for this purpose.

Respectfully submitted,
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